IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 16131 of 2006

Date of Decision: 02.11.2006

Daljit Kaur ... Petitioner

Versus

State of Punjab and others. ..Respondents

Coram : Hon'ble Mr. Justice J.S. Khehar,
Hon'ble Mr. Justice S.D. Anand.

Present : Mr. R.R. Dhawan, Advocate,
for the petitioner.

J.S. Khehar, J. (Oral)

The petitioner is a lady constable. Onward promotion from the post of Constable is to the post of Head Constable. The pre-condition for such promotion is qualifying the Lower School Course. Before a candidate is deputed to Lower School Course, his name is placed in list `B'. The preparation of list `B' is based inter-alia on a physical-cum-endurance test followed by a written test. According to Standing Order (Annexure P/6), a candidate must obtain a minimum 50% marks in the written test, so as to qualify the same. The written test has a total of 65 marks, and as such, to qualify the written test a Constable must have an award of at least 32-1/2 marks therein.

The petitioner appeared for the written test and was awarded 26 marks. It is, therefore, apparent that the petitioner did not qualify the written test in terms of the prescribed standards. Be that as it may, the petitioner claims that her name be placed at List `B'. And further, that she should be deputed to the Lower School Course. This prayer of the petitioner is based

on the fact, that she belongs to the Scheduled Caste category, and as such, she deserves to be placed at List `B', despite the fact that she did not obtain the minimum prescribed marks in the written test. In order to authenticate, the instant contention, the learned counsel for the petitioner has invited our attention to the instructions issued by the State Government dated 5.5.1970, wherein it has been allegedly laid down that candidates belonging to the reserved categories, should not be rendered ineligible, on the basis of tests or examinations. Relevant extract of the aforesaid policy instructions dated 5.5.1970 is being extracted hereunder:

> "3. As to the vacancies be filled up through interview and other methods, the Punjab Govt. instructions are very much clear that where the candidates belonging to SC/BC get minimum qualification, they should not be kept out by conducting some other tests or examinations. Except for qualification and experience, no other qualification be prescribed.
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> 4. It is also made clear that where the candidates belonging to SC/BC are more than the seats reserved for them, the candidates of these categories having higher qualification and experience should be recommended for appointment."

It is not possible for us to accept the aforesaid contention of the learned counsel for the petitioner. The eligibility condition, referred to above, has been statutorily laid down under Rule 13.20 of the Punjab Police Rules, Volume II, in the form of a Standing Order. Such statutory conditions cannot be overridden merely on the basis of administrative instructions like the one dated 5.5.1970, relied upon by the learned counsel for the petitioner.

Even otherwise, the minimum prescribed eligibility standards for Constable to be placed on promotion list `B' having been stipulated, it is not possible for us to accept, that the aforesaid standard shall be lowered for reserved category candidates, on the basis of the administrative instructions relied upon by the learned counsel for the petitioner. It may well be, that candidates belonging to reserved category can steel a march over to the General Category candidates, despite their lower marks. It can, however, never be accepted that the minimum standard stipulated for appointment/promotion can be diluted, so as to affect appointments by way of direct recruitment and/or promotion, on the basis of reservation.

It would also be pertinent to mention that the learned counsel for the petitioner, while canvassing the proposition herein above, relied on a decision rendered by a Division Bench judgment of this Court in Neetu versus State of Haryana and others, 2001(4), Services Law Reporter, 314, as well as, by a learned Single Bench of this Court in Jasmer Singh versus State of Haryana, 1996(3) Services Law Reporter, 370. Having perused the aforesaid judgments, we find that they are inapplicable to the controversy in hand, as neither of these judgments deal with the situation where the concerned candidate possessed qualifications lower than the minimum prescribed qualifications.

Dismissed.

(J.S. Khehar)
Judge

November 02, 2006 (S.D. Anand)
vkd Judge